

**REGULAR MEETING
of the
CITY OF RIALTO
CITY COUNCIL/REDEVELOPMENT AGENCY
MINUTES
August 3, 2004**

A regular meeting of the City Council/Redevelopment Agency of the City of Rialto was held in the City Council Chambers located at 150 South Palm Avenue, Rialto, California 92376, on Tuesday, August 3, 2004.

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This meeting was called by the presiding officer of the Rialto City Council in accordance with the provisions of **Government Code §54956** of the State of California.

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CALL TO ORDER

Mayor Vargas called the meeting to order at 4:05 p.m.

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The roll was called and the following were present: Mayor Vargas, Mayor Pro Tem Wilson and Council Members Robertson, Hanson and Sampson. Also present were City Administrator Garcia, City Attorney Owen and City Clerk McGee.

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CLOSED SESSION

1. Conference with Legal Counsel – existing litigation. The City Council will discuss the following pending litigation pursuant to Government Code Section 54956.9(a):

(a) City of Rialto v. United States Department of Defense, et. al.
(United States District Court Case No. EDVC 04-00079)

(b) David Jacobs v. City of Rialto, et. al.
(San Bernardino Superior Court No. SCVSS094713)

CLOSED SESSION

2. Conference with Real Property Negotiator pursuant to California Government Code Section 54956.8 and Government Code Section 54954.5(b):

Property: Rialto Avenue and Riverside Avenue
(Northeast corner)

Agency Negotiators: Robb Steel, Economic Development
Director on behalf of the
Redevelopment Agency
of the City of Rialto

Negotiating Parties: Robert Jones,
Executor of the Elvin Meeks Estate

Under Negotiation: Price and Terms of Payment
for Acquisition

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CLOSED SESSION

Motion by Council Member Robertson, second by Council Member Sampson and carried by unanimous vote to go into Closed Session. City Council went into Closed Session at 4:07 p.m. and returned at 4:30 p.m.

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CALL TO ORDER

Mayor Vargas called the meeting to order at 6:09 p.m.

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The roll was called and the following were present: Mayor Vargas, Mayor Pro Tem Wilson, Council Members Robertson, Hanson and Sampson. Also present were City Administrator Garcia, City Attorney Owen and City Clerk McGee.

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Pledge of Allegiance and Invocation

Council Member Hanson led the pledge of allegiance. Pastor Art Lucero – Sunrise Church gave the Invocation.

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CITY ATTORNEY'S REPORT ON CLOSED SESSION

City Attorney Owen stated that in Closed Session the City Council conferred with its attorney regarding the two items of pending litigation shown on the Closed Session portion of the agenda. The City Council also conferred with its real property negotiator regarding the property located at the northeast corner of Riverside Ave. and Rialto Ave.

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PRESENTATIONS AND PROCLAMATIONS

Council Member Robertson presented Certificates of Appreciation to the Citizen Advisory Committee for assessing some concerns and making recommendations to the City Council.

Terry Thompson (Chair)

Mike Story

Ted Carrigan

John Plasencia

Judy Roberts

Pam Whyte

Milford Roberts

Gus Theisen

Dr. D.C. Thomas

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Council Member Dennis Yates, Representative to the South Coast Air Quality Management District Governing Board and Janet Laiblin, Public Relations Representative for AQMD, presented the AQMD and healthy air issues.

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Fire Chief Steve Wells and Police Chief Michael Meyers presented their public safety report.

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Lt. Tony Farrar introduced new Code Enforcement Office Kerri Vansickle and presented the report for the July Code Enforcement activities.

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CONSENT CALENDAR

A. WAIVE FULL READING OF ORDINANCES

1. Waive reading in full, all ordinances considered at this meeting.

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B. APPROVAL OF WARRANT RESOLUTIONS

1. Resolution No. 3 (7/16/04)
2. Resolution No. 4 (7/23/04)

C. APPROVAL OF MINUTES

1. Regular RDA/City Council Meeting – May 4, 2004
2. Regular RDA/City Council Meeting – May 18, 2004

CONSENT CALENDAR

D. MISCELLANEOUS

1. Request City Council to adopt **Resolution No. 5129** supporting the passage of Measure I.
2. Request City Council to approve the Retention Agreement for Legal Services of Filarsky & Watt in an amount to exceed \$50,000.
3. Request the Redevelopment Agency to approve the engagement of a Financial Advisor, Fieldman, Rolapp & Associates, in connection with potential Housing Tax Allocation Bond Issue.
4. Request City Council to approve the Memorandum of Understanding concerning a Day Laborer Center Project on Foothill Blvd.
5. Request Redevelopment Agency to adopt **RDA Resolution No. 434** approving and transmitting the report to the City Council for the second Amendment to the Redevelopment Plan for the merged Agua Mansa, Central Business District, Gateway and industrial Redevelopment Projects.
6. Request the Redevelopment Agency to adopt **RDA Resolution No. 435** to approve Amendment No. 3 to the Exclusive Right to Negotiate Agreement with Enertec Environmental, Inc.
7. Request the Redevelopment Agency to adopt **RDA Resolution No. 436** to approve Amendment No. 1 to the Exclusive Right to Negotiate Agreement with Lewis Investment Company, LLC.
8. Request City Council to approve the low bid submitted by Western Air Conditioning Co. for installation of air conditioning units at the Community Center in the amount of \$29,600 from CDBG Funds.
9. Request City Council to adopt **Resolution No. 5130** accepting the 2003 Emergency Management Performance Grant in the amount of \$13,576 and amending its 2004-2005 fiscal budget.
10. Request City Council to award the bid to purchase equipment with Homeland Security Grant Part II Funds in the amount of \$29,402.44.
11. Request City Council to accept Tract Nos. 13369 and 14344 for continued maintenance for the City of Rialto.
12. Request City Council to approve the Lease Agreement for County Library at 251 West First Street, Rialto.

CONSENT CALENDAR

D. MISCELLANEOUS (*continued*)

13. Request City Council to approve the Memorandum of Understanding for RPBA, Police general Bargaining Unit and adopt **Resolution No. 5131** adjusting the City's contribution under the Pubic Employees' Medical and Hospital Care Act.
14. Request City Council to approve the distribution of \$30,000 Asset Forfeiture Set Aside Funds to the Rialto Police Activities League.
15. Request City Council to approve an increase to Purchase Order No. 2004-2801 for the purchase and installation of light-weight, low-voltage, high intensity LED systems on the new Harley-Davidson FLHP1 Road King Motorcycles purchased for use by the Rialto Police Department Traffic Enforcement Division.
16. Request City Council to adopt **Resolution No. 5132** to approve the acceptance of 911 equipment from the State of California, Department of General Services and amend the budget in the amount of \$28,075.
17. Request City Council to make findings of continuing the Emergency for the Acquisition of Wellhead Treatment

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Motion by Council Member Robertson, second by Mayor Pro Tem Wilson and carried by unanimous vote to approve the Consent Calendar as presented with the exception of Consent Calendar Item D-7.

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Item D-7 – Amendment No. 1 - Exclusive Right to Negotiate with Lewis Investment Company, LLC

Robb Steel, Economic Development Director stated that this item is Amendment No. 1 to the Exclusive Negotiation Agreement between the Agency and Lewis Investment Company. One year ago the Agency entered into an Exclusive Negotiation Agreement with Lewis Investments. At the time the property included 350 acres on both sides of the future State Route 210 under construction. The goal was to identify the appropriate land uses, predominately commercial and industrial that would be located along the freeway corridor. Earlier this year the Economic Development Committee reviewed the progress today and considered the request to extend the planning areas to including and surrounding the Rialto Municipal Airport approximately 1000 additional acres. The committee suggested that staff prepare the amendment and bring it the City Council. The Exclusive is very simple in its form and extend the time frame for completing negotiations from June 30, 2004 – June 30, 2006.

CONSENT CALENDAR

Item D-7 – Amendment No. 1 - Exclusive Right to Negotiate with Lewis Investment Company, LLC

Robb Steel, Economic Development Director stated that however, within those 24 months they have a 90 day review period. Both parties have been negotiating a detailed schedule of performance outlining what planning studies, what process need to be undertaken to make this master planning effort come to fruition. It's a fairly complex project involving a number of moving parts and they are trying to break it down into a critical path that they can present in some intelligible form within the next 90 days. The other major element is the expansion of the area. The additional area now encompasses the Airport and other properties. Essentially East from Alder Ave., West of the Cactus Basin and North of Baseline Rd. Needless to say the Agency doesn't contemplate clearing or acquiring all those properties, but for planning purposes they thought they were logically necessary to identify the infrastructure that was necessary and the land uses that would be compatible with each other.

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David Lewis, Lewis Group of Companies and representing the Hillwood Corp. He stated that they prepared a brief video depicting the types of things they are working on here in California and across the country.

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Michael Grant, Century Vintage Homes a residential developer. He stated that they are no strangers to participations with cities. He stated that Century Vintage Homes is a local entity, with offices in San Bernardino and the Owner a life-long resident of Rialto. They are not there to speak negatively about Lewis Group; they would simply have the City Council know that Century Vintage Homes is also an excellent developer with deep local roots. They would invite the City Council during the 90 day period in the Amendment to the Exclusive Right to Negotiate, to consider opening up this ability to participate with Century and perhaps others who wish to participate. He stated that they did not know this was being discussed a year ago; otherwise they would have been there then. They would like the opportunity to participate and to show what they can do.

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John Pavelak, Owner of Century Vintage Homes and resident of Rialto, stated that they have deep roots and started building in Rialto in the 1950's, developing most of El Rancho Verde Country Club. He stated that he has eight executives who live in Rialto. They currently have two deals with the City of San Bernardino on a purchase participation.

CONSENT CALENDAR

Item D-7 – Amendment No. 1 - Exclusive Right to Negotiate with Lewis Investment Company, LLC

John Pavelak stated that the City of Rialto needs to look at a purchase participation because the City needs the money. He stated that Lewis Group is a good developer but would like the City Council to give Century Vintage Homes consideration.

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Chuck Wessman, Accountant for Milian, Johnson and Reardon stated that Mr. Pavelak has put together a very strong group of business men and they recently spoke to Dr. Michael Garrett to take over the Non-Profit part of the Team. They are basically asking for the opportunity to submit a proposal. The 90-day period is going to take place regardless if this amendment is approved or not. The main thing with the July 30th 2006 is basically this would preclude any other developer from any negotiating and he is not sure why that would be in the City's best interest.

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Jim Powers, Richland Communities, stated that they recently found out about this property and would like the City Council to consider, in the City's best interest if they had an opportunity, to see proposals from other developers.

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Council Member Sampson stated that when Mr. Pavelak and Mr. Powers spoke he did not hear either of them comment on how they might take care of the Airport property. One of the things they need to take into consideration is that where airports are concerned, it isn't something a municipality or any other entity has the authority to open or close an Airport without the participation or the sanction of the Federal Aviation Administration (FAA). He stated that based upon his knowledge of Hillwood Corp. They do have extremely close ties in Washington, which provides them with inroads on what a final outcome may be in regards to how they might treat the Airport.

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Council Member Robertson stated that as she was going through the material presented by Century Vintage Homes, she noted that they've made reference to a number of housing developments but no indication of involvement in retail/commercial development. She stated that she did not know if that was an oversight in the material or if it would be a need to assemble group in order to bring about the type of proposal and development the City Council is looking for.

CONSENT CALENDAR

Item D-7 – Amendment No. 1 - Exclusive Right to Negotiate with Lewis Investment Company, LLC

Council Member Robertson stated that she had the opportunity to meet Mr. Powers a couple of weeks ago and he apparently just became aware of the fact they were looking at this larger project in the North end of the City. At the time she did not know if they had moved themselves to look at the Exclusive Right to Negotiate and she may have misled him and would like to apologize for that because they were in the first phase where they were looking at some of the land developments and were not looking at the total 450 acres around the airport. They sat down and had discussions with Lewis Group and as one of the members commented, time for them is of the essence. She does not want them 2-3 years out after the freeway is constructed and they are just beginning to look at what types of development and what types of concepts they could look at. She would like to be ready and in position so that development can begin to come and grow at the same time that they are beginning to open the freeway and move forward with as much opportunity of enhancing and adding to the community. She stated that the 90-day period is make sure that they are all comfortable with what they are going to commit themselves over the next two years but they have presented some things they know they will need to have with regard to the Airport, if it's a need for closure or a need for reduction. She stated that if staff would like to recommend that there is an opportunity where people can assemble proposals within that 90-day period to be looked at because it's no guarantee that they may come to some point of resolution.

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Mayor Pro Tem Wilson stated that he appreciates all those who came out tonight to speak on this item and is obviously one of those difficult decisions for them. He stated that he has been extremely impressed with Jim and the product his company has produced. He stated that he lives in one of the homes Mr. Pavelak has built. He stated that it is not a question of the product but the issue is time is of the essence and they have made tremendous momentum with this project and he would be very cautious about anything that would potentially impede that product or the benefits that would come from that product. The other part is that they are getting a little ahead of themselves because they are talking about what would ultimately become of the Airport when at this stage they have not made a decision as to whether or not they want to pursue the closure of the Airport.

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CONSENT CALENDAR

Item D-7 – Amendment No. 1 - Exclusive Right to Negotiate with Lewis Investment Company, LLC

Mayor Vargas stated that time is of the essence and they need to plan ahead and not at the last minute. They need to be ready when the 210 Freeway is completed. She is not saying that the other Developers do not do the best of their ability to build or to develop the best. She did take a tour of the Lewis development in different cities and she was impressed with their state of the art buildings. Should Lewis Group develop for the city, she knows that she and the citizens will be very pleased.

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City Administrator Garcia stated that they have discussed this for several years. He stated that Lewis Group has taken the initiative to hone in with the staff on how to proceed. He stated that they should not lose this opportunity and move forward on what has been established the last two years.

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Motion by Mayor Pro Tem Wilson, second by Council Member Robertson and carried by unanimous vote to adopt **RDA Resolution No. 436** to approve Amendment No. 1 to the Exclusive Right to Negotiate Agreement with Lewis Investment Company, LLC.

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Item D-13 – MOU for RPBA, Police General Bargaining Unit, Resolution No. 5131 adjusting the City's contribution

Council Member Sampson stated that one of the things they feel pretty good about is that they are at the point where they are no longer negotiating and one of the things to take into consideration is that at the time negotiations was going on, if by chance any of them saw the need to have contact with either side that he thinks was inappropriate and counter-productive. He wanted to express City Council's gratitude for the job that he has done since he had been here. At the time he came, there was strife and volatility where the Department is concerned and he is not saying they don't have that at this time. He stated that people will be people and as long as you have a human being that is involved in any type of activity that you will have some type of unrest. He has not seen a situation where they could have a group of people and everyone is satisfied.

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CONSENT CALENDAR

TAB 1 – Placement of liens for delinquent refuse collection

City Administrator Garcia stated that this item is the annual public hearing for the placement of liens for delinquent refuse collections against properties.

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CONSENT CALENDAR

TAB 1 – Placement of liens for delinquent refuse collection

Mayor Vargas declared the public hearing open. No one came forward.

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Motion by Mayor Pro Tem Wilson, second by Council Member Robertson and carried by unanimous vote to close the public hearing.

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Motion by Council Member Sampson, second by Council Member Robertson and carried by unanimous vote to approve the placement of liens for delinquent refuse collection against the properties listed.

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TAB 2 – Resolution No. 5133 for Street Lighting Assessment District No. 1

Assistant City Administrator Warner stated that this item is the Street Lighting Assessment District No. 1 and they have had prior presentations at the July 6th City Council Meeting. This District has been in place since 1977. The method and the amounts are maintained at this point at a static level because of Proposition 218, which requires voter approval to make changes. One of the financial impacts this year, the approximate revenue if approved for the District is \$799,390 and the estimated cost for this year is \$850,889. He stated that they have some fund balance in this particular District to cover this year. In the next year they will need to do something in regards to this particular District to make sure that the revenues and expenditures are able to match.

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Mayor Vargas declared the public hearing open. No one came forward.

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Motion by Council Member Sampson, second by Council Member Robertson and carried by unanimous vote to close the public hearing.

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Motion by Mayor Pro Tem Wilson, second by Council Member Sampson and carried by unanimous vote to adopt Resolution No. 5133 for Street Light Assessment District No. 1 confirming the Engineer's Report and ordering the continued operation of the District for fiscal year 2004/2005.

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PUBLIC HEARING

TAB 3 – Resolution No. 5134 for Landscaping Maintenance District No. 1

Assistant City Administrator Warner stated that this item is the Landscape Maintenance District that has been in place since 1977. He stated that new developments occurred and gets annexed to this District and as a result a variety homes and businesses pay toward the maintenance of the landscape areas. Unfortunately in this situation the revenue projected for this year is less than the cost of the maintenance. As you know costs go up each year as a result of normal increases and the consumer price index. They are restricted in this District in their method of increasing revenue and will take a much longer process. They will be looking to the City Council in the next coming year to undertake that process to look at that particular District and the areas it takes care of. There has been an Engineer's Report previously presented to the City Council showing the method of assessment and the amount.

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Mayor Vargas declared the public hearing open.

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Richard Goings, 1244 N. Primrose Ave., stated that it didn't make any sense how the City of Rialto can continue to ask for more money when he heard that the City had filed for bankruptcy.

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City Attorney Owen stated that the point of these assessment districts is to raise money to pay for maintenance you see on the streets, the medians, green belts and the trees. The point of these assessment districts is to authorize assessments to be levied against the property owners that are benefited by those improvements.

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Mr. Goings stated that the City can't do that because of Proposition 13.

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City Attorney Owen stated that these districts were both established before Proposition 218 was adopted, these assessments are not taxes under Proposition 13 and there are a number of cases that hold that. This is a very common practice not only in Rialto but in other cities throughout the Southland to pay for ongoing maintenance costs that benefit private property owners. He stated that this isn't merely an expenditure of money, this is a raising of money for future expenditure.

PUBLIC HEARING

TAB 3 – Resolution No. 5134 for Landscaping Maintenance District No. 1

City Attorney Owen stated that if they listen to TAB 4 they will learn a little bit more about what the City staff is doing in response to Proposition 218 and what they can do to keep the city green.

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City Administrator Garcia stated that for a point of clarification, the City of Rialto has never been in bankruptcy but in 2000 they did suffer a deficit and that deficit has been overcome to some degree through the Utility User Tax and is pleased to announce that the 2-year budget recently passed was a balanced budget.

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Judy Roberts, 2536 W. Loma Vista Dr., requested clarification on the locations of District No. 1 and District No. 2.

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City Attorney Owen stated that they are both citywide.

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Motion by Mayor Pro Tem Wilson, second by Council Member Hanson and carried by unanimous vote to close the public hearing.

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Motion by Council Member Sampson, second by Mayor Pro Tem Wilson and carried by unanimous vote to adopt **Resolution No. 5134** for Landscape Maintenance District No. 1 confirming the Engineer's Report and ordering the continued operation of the District for fiscal year 2004/2005.

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TAB 4 – Creation of a new Landscaping and Lighting District No. 2

Assistant City Administrator Warner stated that this item is the creation of a new District that will resolve some of the issues they currently have with the existing Landscape and Lighting Districts and address issues for future development. He stated that MuniFinancial was there that evening to answer any questions; they were the ones who prepared the Engineer's Report and will be doing the ballot counting and report the final actions. He stated that within the report it lists the new development and higher assessments than the current existing Maintenance Districts, because costs have increased and there are reasons for having those revenues to maintain the areas properly. A modified process will need to be taken to address all of the existing properties and issues in Districts No.1.

PUBLIC HEARING

TAB 4 – Creation of a new Landscaping and Lighting District No. 2

Assistant City Administrator Warner stated that when they consider the public hearing at this point and after the public hearing they will go through a series of actions to consider. In addition to any ballots that have been presented and already given to the City Clerk, when opening the public hearing offer to take any ballots or any comments so they can be officially entered into the count. After public comments, the City Clerk will then open the ballots and written comments received.

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Mayor Vargas declared the public hearing open.

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Sara Garcia, Rialto resident, requested clarification on the areas that they are discussing. She stated that she would like to see some improvements in her neighborhood.

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Assistant City Administrator Warner stated that this is to maintain the landscape medians and parkways that are associated with particular developments and around the streets. This also pays for the street lighting in various areas. The only difference from District No. 1 and District No. 2 is when they were developed; District No. 2 would apply to new development. The issue they have at this time is that because of the new law of Prop. 218 in place they don't have an easy mechanism for making sure that the amount of revenue can keep up with cost increases to insure they can maintain the areas in a proper manner. They have started running into the situation that the revenue is not able to keep up with cost and will be dealing with that by a Prop. 218 action where they will go out to the various districts and talk to people to generate support. They are trying to make sure they have a process in place to take care of new development and move forward and then come back and look at existing development.

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Mr. Richard Goings, 1244 N. Primrose Ave., asked who generates the money, the citizens or the City. He stated that the lighting and the parkways belong to the City not to the citizens.

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PUBLIC HEARING

TAB 4 – Creation of a new Landscaping and Lighting District No. 2

City Administrator Garcia stated that the citizens generate the money. He stated that public improvements and common areas are to be shared areas and are divided into districts and those costs to maintain are typically always born to residential units. The question is why, because it's a standard practice. He stated that yes, parkways are owned by the City. He stated that back in the early 1970's there was a decision that when there was new development throughout California that there was commonality that citizens would make those payments similar to the commonality of the Utility User Tax for public services.

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Council Member Sampson stated that in 1972 that the State Legislature took an action to establish the Landscaping & Lighting Act. Landscaping and Lighting were included in the same Act, but you take two different actions and they were called Benefit Assessment Districts. The benefit being that for the people who lived where the parkways were being maintained or where the lighting was being provided that the State in its wisdom knowing the dire situation with which municipalities were confronted in trying to provide those services. There were some areas where the residents kept their yards nice and green and the parkways were not so nice. It was based upon that to try and beautify the City, that the law was established. The City of Rialto first took advantage of that in 1977 and 1978.

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Assistant City Administrator Warner stated that they do have a special benefit process specifically in the surrounding areas of their properties. Each of the developments that are included in the report and including the ones in the original Landscape Maintenance District, when they developed the properties they agreed to enter into and join these Landscape and Lighting Districts. By agreeing to that; the property owners who buy the homes agree to accept the benefit they will get from the parkways and lighting.

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Mr. Goings asked if it made sense to have parkways on one side of the street and not on the other side in a residential area.

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PUBLIC HEARING

TAB 4 – Creation of a new Landscaping and Lighting District No. 2

Council Member Sampson stated that it probably does not make sense but at the time the development took place it might not have been done by the same Developers and the curb and gutter was right at the property line.

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Mayor Vargas stated that it is the same in her neighborhood. She asked how they determine the fee to charge if she wanted that Landscape Maintenance in her neighborhood. From South Maple Ave. to Linden Ave. they need that there. There are 88 homes in that area what would she tell them.

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Assistant City Administrator Warner stated that she may be able to petition the area and ask to have it added and to join the Landscape and Lighting Districts. You would then pay the assessments and through that process the city would take on the maintenance. And reality all this generates from a voluntary basis and it generally starts at the new development stage when the developer agrees to enter into and allow the homes to be in the assessment district.

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Mayor Vargas asked how they came to the conclusion of the fees being charged for the Landscape Maintenance.

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Assistant City Administrator Warner stated that they look at the total estimated cost of maintaining all of the properties and there is a method of looking at equivalent dwelling units and most are single family homes and they take a look at commercial and industrial property. The engineers spread those costs based on front footages and other ways to the special benefits they receive and come up with an annual cost. He can't say how much Mayor Vargas' neighborhood would be but this is the basic method to look at the costs and spread the amount to the various properties in the district.

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Assistant City Administrator Warner stated that many of the comments heard are not necessarily specific to this particular district because these are particular developments and have a value overall in terms of looking at landscaping and lighting districts in general. Just trying to separate that in terms of the next process which will take place as they close the public hearing.

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PUBLIC HEARING

TAB 4 – Creation of a new Landscaping and Lighting District No. 2

Motion by Council Member Hanson, second by Council Member Sampson and carried by unanimous vote to close the public hearing.

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Council Member requested that they move on to TAB 6 while the City Clerk counts the ballots.

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NEW BUSINESS

TAB 6 – Contract for mowing and edging city properties to Azteca Landscape, Inc.

Assistant City Administrator Warner stated that this is the award of bid to Azteca Landscape, Inc. for the mowing and edging contract for City properties and parks. Azteca currently does the City's mowing and edging contract. They have been in the process of going out to bid for the last year and have now received the bids with the results in the City Council packets. There were three bids received, Azteca Landscape, S.C. Yamamoto and True Green. For the level of service and what they are currently doing that Azteca continues to be the low bid. The annual amount of the contract is anticipated to be just over \$55,000 a year and they are asking that the contract has three one year terms assuming that they are continuing to be satisfied with their work. They have in this bid some alternatives and asked the bidders to provide guaranteed prices so as the City budget or other areas to allow increasing some of the level of services if they are able to. For example including amounts for additional shrub and ground cover, planter maintenance and facilities and the downtown medians. Potentially more work at the parking lot Metrolink Station and some of the median planters along Riverside and Agua Mansa Avenues.

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Council Member Hanson stated that on the bid sheet it has the frequency of maintenance for each park and facility.

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Assistant City Administrator Warner stated that some say 39 mowings or 52 mowings. There are time periods in the year where they will skip a week. We welcome feedback from the City Council and the community who question the frequency of the mowings.

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Council Member Hanson stated that she noticed that the planter beds are looking like they are not maintained as frequent.

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NEW BUSINESS

TAB 6 – Contract for mowing and edging city properties to Azteca Landscape, Inc.

Assistant City Administrator Warner stated that planter beds are different; this contract is for mowing and edging only. Planter beds are done by City crews.

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Mayor Vargas asked if the Landscape Maintenance covers Riverside Ave. from Foothill to Baseline Rd.

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Assistant City Administrator Warner stated that the Mowing and Edging contract would not cover this. The Landscape Maintenance District might, which is a different contract and a different process.

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Motion by Council Member Hanson, second by Council Member Sampson and carried by unanimous vote to award the bid to Azteca Landscape, Inc. for mowing and edging of City properties and parks in the amount of \$58,120.

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TAB 7 – Purchase of police radios

Police Chief Michael Meyers stated that this is the routine purchase of the hand held radios. Late last year they purchase 50 new radios and their intention was to replenish their entire stock. The current existing radios are approximately 10 years old and require a lot of repair as well as new the technology the Sheriff's Communication is implementing. With this purchase they will be acquiring an additional 35 radios which will bring them up to a total of 85 new radios and at a future date they will pick up additional radios. This is being funded by the Citizens Option for Public Safety State Grant (COPS) with no match associated with it.

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Motion by Mayor Pro Tem Wilson, second by Council Member Hanson and carried by unanimous vote to approve the purchase of new police radios in the amount of \$126,725.

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TAB 8 – Purchase of new police vehicles

Police Chief Michael Meyers stated that this is the purchase of vehicles for their fleet. This is in large part related to the passage of Measures J & K and the additional of 19 personnel which created the need for additional vehicles as well as the continuation of replacing the existing vehicles.

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NEW BUSINESS

TAB 8 – Purchase of new police vehicles

Motion by Mayor Pro Tem Wilson, second by Council Member Hanson and carried by unanimous vote to approve the purchase of new police vehicles in the amount of \$694,600.

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TAB 9 – Resolution No. 5139 – PSA Amendment No. 3 to Caltrop Engineering Corp. for in-house engineering services

Mayor Pro Tem Wilson requested to be excused from voting on this item because he has a potential conflict due to a long standing financial relationship and friendship with the Contractor.

Mayor Pro Tem Wilson left the Dais at 8:50 p.m.

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Assistant City Administrator Warner stated that this an extension for temporary professional services for in-house Engineering Division support for the transition of a new City Engineer and maintain the engineering status. This Agreement is with Caltrop Engineering Corp. for in-house Engineering Division support. In the Engineering Division they just recently hired a new Traffic Engineer. This position is being funded by contributions from the General Fund which his directly relate to the Utility User Tax in support of transportation and traffic issues in the City. They also have another Civil Engineer that was hired 6 months ago and they have two of those positions completed and that transition has been completed. They have not been as fortunate at this point in their recruitment for the City Engineer position and as a result this contract was put in place a year ago to allow them that transition. This amendment gives them the ability to extend it through this calendar year to finish the recruitment and make the transition.

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Motion by Council Member Hanson, second by Council Member Robertson and carried by unanimous vote to adopt **Resolution No. 5139** to approve the Professional Services Agreement Amendment No. 3 to Caltrop Engineering Corp. for Extension of Temporary Professionals Services for In-house Engineering Division Support and amend the budget and increase the purchase order No. 2004-1972 in the amount of \$202,400.

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Mayor Pro Tem Wilson returned to the Dais at 8:53 p.m.

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**CHIEF FINANCIAL OFFICER'S
REPORT**

June Overholt, Chief Financial Officer presented the two months ending in May 2004 representing 92% of the year.

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ORAL COMMUNICATIONS

Richard Goings, 1244 N. Primrose Ave., stated that in regards to the perchlorate clean-up charges on the waters bills, the Sun Newspaper printed that the City received \$4 billion dollars from the State of California.

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City Administrator Garcia stated that he assures Mr. Goings that the City of Rialto did not receive \$4 billion dollars from the State and that the Sun Newspaper may have misprinted the information. He stated that what they did receive was \$4 million for research project development which not was specifically oriented to new water development of water treatment for wells.

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Mr. Goings asked when the citizens will be reimbursed for the perchlorate charges.

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City Attorney Owen stated that Senator Feinstein included in the Senate version of the Defense Appropriations Bill \$4 million dollars for a research and development project to be administered by an office through the Department of Interior. That project is going to pay for facilities that will demonstrate whether or not insitu/exsitu bio remediation will work. Insitu means in the ground and exsitu means out of the ground. In each of them they run the water through a biological filter process and try to remove the perchlorate in that manner. This will not be a check that comes to the City but payments to contractors including the Army Corp. of Engineers to come out to Rialto and build that. In an attempt to find a cheaper way to treat water that has been tainted with perchlorate. It is not monies that will be available to assist in the amounts necessary to pay for the ongoing costs of the water system. In addition, the City has filed suit against 42 potentially responsible parties, including the Department of Defense, The County of San Bernardino, Amhart Industries, Black and Decker and a lot of companies that very good resources for defending themselves in a court of law. The City is committed to pursuing that suit to the end, because the City firmly believes they polluted the water and the City has the evidence to prove it.

ORAL COMMUNICATIONS

City Attorney Owen stated that the question for the City Council became, are they going to sit back and do nothing and raise the rates only half as much to pay for the expensive treatment or are they going to raise the rates as necessary to pursue full remediation from those companies that caused the problem. After they successfully pursue recovery from them of if not 10's of millions but 100's of millions of dollars. After the reserve funds are replenished and the other funds that the City used to pay for that battle are paid back, this City Council has committed in an Ordinance, the most formal action, to refunding any excess after those matters have been paid back to the ratepayers. The form in which that will take is not determined yet, that is something that will be taken up probably when the money is available. When will this happen? This is hard to tell in a Federal Court of Law with 43 parties on how long it will take. The Trial Court has indicated that they intend to hold the trial during the year 2006. This can get pushed back and/or the case will probably settle before then. He would look in that general ballpark, give or take two years, for something to happen. He stated that great progress is being made, their positions are changing on the other side, which is always a sign of weakness and the City intends to pursue it to the bitter end.

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Mayor Pro Tem Wilson stated to clarify what City Attorney Owen said, the money he was referring to was the \$4 million with an "M" and not a "B". He asked City Attorney Owen to clarify that once they filtered that water can they then serve that water.

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City Attorney Owen stated that they probably could legally, but it's not the intention to do so. It's the intention to use that water for the freeway construction and irrigation purposes.

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PUBLIC HEARING

TAB 4 – Creation of a new Landscaping and Lighting District No. 2

City Attorney Owen stated that the ballot results are as follows: In Favor – 30% of the votes cast and In Opposition 70% of the votes cast. Therefore the ballot measure would not pass. These are the numbers that need to be included in the Resolution declaring the results of the ballot proceedings and the City Council should not take any action on any of the subsequent Resolutions. He doesn't think staff anticipated that result and thinks staff will regroup, look at it and come back with report at a subsequent meeting.

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PUBLIC HEARING

TAB 4 – Creation of a new Landscaping and Lighting District No. 2

Motion by Council Member Sampson, second by Council Member Hanson and carried by unanimous vote to adopt **Resolution No. 5135** declaring the results of a Property Owner protest ballot proceeding for the Rialto Landscaping and Lighting District No. 2.

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ORAL COMMUNICATIONS

Graciela Arroyo, 2570 W. 7th Street, expressed her concern regarding the Mayor appointing Mayor Pro Tem Kurt Wilson and Council Member Deborah Robertson to a committee to review the concerns of the Police Department

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Mayor Vargas stated that she is against the Rialto Police Department going to the San Bernardino Sheriff's Department. On the appointment it is customary that when they have an important issue that needs to be investigated, they form committees and it is her job to form that committee so they can get the right information. She stated that it was presented to the City Council that it would be the best thing to form a committee so they can get the right answers from the Sheriff's Department, not that she personally suggested it. She stated that the appointment falls under her Mayorship and the City Council is working as a team.

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REPORTS

Mayor Pro Tem Wilson stated that beginning August 5th there will be a slight change to the Highland detour.

Mayor Pro Tem Wilson requested that the meeting be adjourned in the memory of San Bernardino Public Employee Association General Manager Chris Prato.

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Council Member Hanson gave no report.

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Council Member Sampson stated that they will be dark at the next scheduled meeting; therefore they will not be meeting until the first meeting in September. For those who are lucky enough to go on vacation, be careful and drive safely.

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Council Member Robertson stated that she applauds the young lady for coming forward and asking for clarification because unfortunately a lot of issues are addressed in the paper or comments are made and then distorted.

REPORTS

Council Member Robertson stated that it's been portrayed that two Council Members are making decisions apart from the whole City Council. She stated that as she has continued to say it was subcommittee to do fact finding and a subcommittee is usually a minority of the majority. She doesn't know if the matter will ever be put to bed completely because they are beginning to enter an election year. It takes courage to ask for clarification and to come to the source.

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Mayor Vargas stated that she attended the Musical Marketplace which was a lot of fun. The next ones will be on August 14th and August 28th and she encouraged the residents to be there.

Mayor Vargas received a letter from Mr. Don Olinger thanking the City Council for acknowledging them and giving them an award for beautifying their homes.

Mayor Vargas wished Council Member Winnie Hanson a Happy Birthday.

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City Administrator Report

City Administrator Garcia expressed his appreciation and thanks to the camera crew.

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ADJOURNMENT

Motion by Council Member Robertson, second by Council Member Sampson and carried by unanimous vote to adjourn the meeting in memory of:

Chris Prato

The City Council adjourned at 9:15 p.m.

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MAYOR GRACE VARGAS

ATTEST:

CITY CLERK BARBARA A. McGEE, CMC